

Spring 2007 Proposed Board of Elections Rules

5:02:03:21. Statement by person registering without a driver's license or social security number.

The statement which must be signed by a person registering to vote who does not have a South Dakota driver's license or social security number shall be in the following form:

Statement by Person Registering Without a Driver's License or Social Security Number

I, _____ (print complete name), under oath, declare that I do not have a valid South Dakota driver's license and that I have not been issued a social security number. Because I do not have a South Dakota driver's license or social security number, my voter registration form is blank in the spot requiring such number.

(Signed) _____
Sworn to before me this ____ day of _____, 20____.
(Seal) _____

Signature of County Auditor

Source: 29 SDR 177, effective July 2, 2003.
General Authority: SDCL 12-4-5.4.
Law Implemented: SDCL 12-4-5.4.

5:02:05:22. Provisional ballot envelope.

The provisional ballot envelope shall be blue and in the following form:

Voter's Affirmation for a Provisional Ballot

My voter registration was completed on or about the following date and was left with the following person or agency for delivery to the county auditor: _____

My name is _____, I reside at _____,
my mailing address is _____, my date of birth is _____,
my driver license number or the last four digits of my social security
number is _____, my daytime telephone number is _____ and
my evening telephone number is _____.

I understand if the election authority determines that I am not registered in this precinct and therefore not eligible to vote in this precinct, my vote will not be counted. I further understand that my vote may not be secret if only one provisional ballot is cast in the precinct. I swear or affirm under penalty of perjury that I registered and am eligible to vote in this precinct.

Signature of Voter

Date

To be completed by a precinct election worker:

Precinct number _____ Type of ballot provided to voter _____

Signature of precinct worker

Source: 29 SDR 177, effective July 2, 2003; 31 SDR 214, effective July 4, 2005.
General Authority: SDCL 12-18-40.
Law Implemented: SDCL 12-18-40.

Chapter 5:02:06

Ballot Forms and Color

Sec.

- 5:02:06:01. General election.
- 5:02:06:01.01. Constitutional amendments.
- 5:02:06:01.02. Optical scan ballot instructions.
- 5:02:06:01.03. Optical scan ballot political party notation.
- 5:02:06:02. Constitutional amendments proposed by Legislature - Title.
- 5:02:06:02.01. Constitutional amendments proposed by Legislature - Recitation of effect of yes or no vote.
- 5:02:06:02.02. Initiated constitutional amendment - Title.
- 5:02:06:02.03. Initiated constitutional amendment - Recitation of effect of yes or no vote.
- 5:02:06:03. Judiciary.
- 5:02:06:03.01. ~~Supreme Court justice retention ballot.~~ Repealed.
- 5:02:06:03.02. Deadline for request to be on retention ballot.
- 5:02:06:04. Special district.
- 5:02:06:04.01. Initiated measures and referred laws.
- 5:02:06:05. Initiated measures - Title.
- 5:02:06:05.01. Initiated measures - Recitation of effect of yes or no vote.
- 5:02:06:06. Referred laws - Title.
- 5:02:06:06.01. Referred laws - Recitation of effect of yes or no vote.
- 5:02:06:07. Transferred to § 5:02:06:02.02
- 5:02:06:07.01. Transferred to § 5:02:06:02.03
- 5:02:06:08. Sample ballots.
- 5:02:06:09. Party precinct committeeman and committeewoman.
- 5:02:06:10. Primary.
- 5:02:06:10.01. Repealed.
- 5:02:06:10.02. Presidential primary'.
- 5:02:06:11. Repealed.
- 5:02:06:12. Municipal election.
- 5:02:06:13. Municipal questions election.
- 5:02:06:14. Municipal bond election.
- 5:02:06:15. School board election.
- 5:02:06:16. Ballot for increasing or decreasing number of school board members.
- 5:02:06:17. Ballot for statewide secondary election.
- 5:02:06:18. Colors of ballots for combined elections.
- 5:02:06:19. Nonpolitical consumers power district election.
- 5:02:06:20. Tax levy opt-out ballot.

5:02:06:01. General election.

The general election ballot must be white and must be in the following form, as applicable:

OFFICIAL GENERAL ELECTION BALLOT

_____ County, South Dakota

November _____, _____

To vote use a cross (X) or check mark (✓) in the square in front of the name (or group).
DO NOT cast more votes than are allowed in each race.

REPUBLICAN PARTY

DEMOCRATIC PARTY

INDEPENDENT CANDIDATES

For PRESIDENTIAL ELECTORS, you may vote for one slate or leave it blank

☐

Doe & Ree Electors

_____ John Doe

_____ Jane Doe

_____ John Doe

☐

Doe & Ree Electors

_____ John Doe

_____ Jane Doe

_____ John Doe

☐

Doe & Ree Electors

_____ affiliated with the

_____ Party

_____ John Doe

_____ Jane Doe

_____ John Doe

☐

Doe & Ree Electors

_____ affiliated with

_____ no Party

_____ John Doe

_____ Jane Doe

_____ John Doe

For UNITED STATES SENATOR, you may vote for one or leave it blank

☐

John Doe

☐

John Doe

☐

John Doe

_____ affiliated with the

_____ Party

☐

John Doe

_____ affiliated with the

_____ Party

For UNITED STATES REPRESENTATIVE, you may vote for one or leave it blank

☐

Jane Doe

☐

Jane Doe

☐

Jane Doe

_____ affiliated with the

_____ Party

For GOVERNOR AND LIEUTENANT GOVERNOR, TO BE ELECTED AS A TEAM, you
may vote for one or leave it blank

☐

John Doe

_____ for GOVERNOR

And

_____ Jane Doe

_____ for LIEUTENANT GOVERNOR

☐

John Doe

_____ for GOVERNOR

And

_____ Jane Doe

_____ for LIEUTENANT GOVERNOR

☐

John Doe

_____ affiliated with the

_____ Party

_____ for GOVERNOR

and

_____ Jane Doe

_____ affiliated with the

_____ Party

_____ for LIEUTENANT GOVERNOR

For SECRETARY OF STATE, you may vote for one or leave it blank

☐

John Doe

☐

John Doe

☐

John Doe

_____ affiliated with the

_____ Party

For ATTORNEY GENERAL, you may vote for one or leave it blank

☐

Jane Doe

☐

Jane Doe

☐

Jane Doe

_____ affiliated with the

_____ Party

For STATE AUDITOR, you may vote for one or leave it blank

☐

John Doe

☐

John Doe

☐

John Doe

_____ affiliated with the

_____ Party

For STATE TREASURER, you may vote for one or leave it blank

☐

Jane Doe

☐

Jane Doe

☐

Jane Doe

____ affiliated with the
_____ Party

For COMMISSIONER OF SCHOOL AND PUBLIC LANDS, you may vote for one or
leave it blank

☐

John Doe

☐

John Doe

☐

John Doe

____ affiliated with the
_____ Party

For PUBLIC UTILITIES COMMISSIONER, you may vote for one or leave it blank

☐

Jane Doe

☐

Jane Doe

☐

Jane Doe

____ affiliated with the
_____ Party

For STATE SENATOR, District __, you may vote for one or leave it blank

☐

John Doe

☐

John Doe

☐

John Doe, affiliated
____ with the _____ Party

For STATE REPRESENTATIVES, District __, you may vote for up to two or leave it
blank

☐

Jane Doe

☐

Jane Doe

☐

Jane Doe, affiliated
____ with the _____ Party

☐

John Doe

☐

John Doe

☐

John Doe, affiliated
____ with the _____ Party

For COUNTY TREASURER, you may vote for one or leave it blank

☐

Jane Doe

☐

Jane Doe

☐

Jane Doe, affiliated
____ with the _____ Party

For COUNTY AUDITOR, you may vote for one or leave it blank

☐

John Doe

☐

John Doe

☐

John Doe, affiliated
____ with the _____ Party

For STATES ATTORNEY, you may vote for one or leave it blank

☐

Jane Doe

☐

Jane Doe

☐

Jane Doe, affiliated
____ with the _____ Party

For SHERIFF, you may vote for one or leave it blank

☐

John Doe

☐

John Doe

☐

John Doe, affiliated
____ with the _____ Party

For REGISTER OF DEEDS, you may vote for one or leave it blank

☐ Jane Doe

☐ Jane Doe

☐ Jane Doe, affiliated
with the _____ Party

For CORONER, you may vote for one or leave it blank

☐ John Doe

☐ John Doe

☐ John Doe, affiliated
with the _____ Party

For COUNTY COMMISSIONER, District __, you may vote for one or leave it blank

☐ Jane Doe

☐ Jane Doe

☐ Jane Doe, affiliated
with the _____ Party

For COUNTY COMMISSIONER AT LARGE, you may vote for up to _____ or leave it blank

☐ John Doe

☐ John Doe

☐ John Doe, affiliated
with the _____ Party

☐ Jane Doe

☐ Jane Doe

☐ Jane Doe, affiliated
with the _____ Party

OFFICIAL GENERAL ELECTION BALLOT		(Ballot Stamp)
November __, ____	County, South Dakota	
INSTRUCTIONS TO THE VOTER: Insert appropriate instructions from ARSD 5:02:06:01.02		
For Presidential Electors, you may vote for <u>one</u> slate or leave it blank	For Secretary of State, you may vote for <u>one</u> or leave it blank	For State Senator, District __, you may vote for <u>one</u> or leave it blank
<input type="radio"/> Doe & Roe Electors Party Label	<input type="radio"/> John Doe Party Label	<input type="radio"/> John Doe Party Label
John Doe		
Jane Doe	<input type="radio"/> John Doe Party Label	<input type="radio"/> John Doe Party Label
John Doe		
<input type="radio"/> Doe & Roe Electors Party Label	<input type="radio"/> John Doe Independent	<input type="radio"/> John Doe Independent
John Doe	For Attorney General, you may vote for <u>one</u> or leave it blank	For State Representatives, District __, you may vote for up to <u>two</u> or leave it blank
Jane Doe		
John Doe	<input type="radio"/> John Doe Party Label	<input type="radio"/> John Doe Party Label
<input type="radio"/> Doe & Roe Electors Independent	<input type="radio"/> John Doe Party Label	<input type="radio"/> John Doe Party Label
John Doe		
Jane Doe	<input type="radio"/> John Doe Independent	<input type="radio"/> John Doe Party Label
John Doe		
INSTRUCTIONS TO THE VOTER: Insert appropriate instructions from ARSD 5:02:06:01.02	For State Auditor, you may vote for <u>one</u> or leave it blank	<input type="radio"/> John Doe Party Label
For United States Senator, you may vote for <u>one</u> or leave it blank		<input type="radio"/> John Doe Independent
	<input type="radio"/> John Doe Party Label	<input type="radio"/> John Doe Independent
<input type="radio"/> John Doe Party Label	<input type="radio"/> John Doe Party Label	For State Representative, District __, you may vote for <u>one</u> or leave it blank
<input type="radio"/> John Doe Party Label	<input type="radio"/> John Doe Independent	<input type="radio"/> John Doe Party Label
<input type="radio"/> John Doe Independent	For State Treasurer, you may vote for <u>one</u> or leave it blank	<input type="radio"/> John Doe Party Label
		<input type="radio"/> John Doe Independent
For United States Representative, you may vote for <u>one</u> or leave it blank		
	<input type="radio"/> John Doe Party Label	For County Treasurer, you may vote for <u>one</u> or leave it blank
<input type="radio"/> John Doe Party Label		
<input type="radio"/> John Doe Party Label	<input type="radio"/> John Doe Party Label	<input type="radio"/> John Doe Party Label
<input type="radio"/> John Doe Independent	<input type="radio"/> John Doe Independent	<input type="radio"/> John Doe Party Label
For Governor and Lieutenant Governor, to be elected as a team, you may vote for <u>one</u> or leave it blank	For Commissioner of School and Public Lands, you may vote for <u>one</u> or leave it blank	<input type="radio"/> John Doe Independent
		For County Auditor, you may vote for <u>one</u> or leave it blank
<input type="radio"/> John Doe Party Label	<input type="radio"/> John Doe Party Label	
for Governor and		<input type="radio"/> John Doe Party Label
Jane Doe	<input type="radio"/> John Doe Party Label	
for Lieutenant Governor		<input type="radio"/> John Doe Party Label
<input type="radio"/> John Doe Party Label	<input type="radio"/> John Doe Independent	<input type="radio"/> John Doe Independent
for Governor and	For Public Utilities Commissioner, you may vote for <u>one</u> or leave it blank	For States Attorney, you may vote for <u>one</u> or leave it blank
Jane Doe		
for Lieutenant Governor	<input type="radio"/> John Doe Party Label	<input type="radio"/> John Doe Party Label
<input type="radio"/> John Doe Independent	<input type="radio"/> John Doe Party Label	<input type="radio"/> John Doe Party Label
for Governor and		
Jane Doe	<input type="radio"/> John Doe Independent	<input type="radio"/> John Doe Independent
for Lieutenant Governor		
Go to top of next column	Go to top of next column	Turn Page

November __, ____	County, South Dakota	
For Sheriff, you may vote for <u>one</u> or leave it blank	NONPOLITICAL BALLOT	INSTRUCTIONS TO THE VOTER: Insert appropriate instructions from ARSD 5:02:06:01.02
<input type="radio"/> John Doe Party Label	Supreme Court Justice Retention	Constitutional Amendment(s)
	Vote on each justice. Shall the justice(s) of the Supreme Court named on this ballot, whose term(s) expire(s) (date), be retained in office?	The following amendment(s) to the State Constitution (is/are) submitted to the voters by the (Legislature or by petition). The amendment(s) will not become effective unless approved by majority vote.
<input type="radio"/> John Doe Party Label	Justice John Doe, representing the ____ Supreme Court District	Constitutional Amendment A
<input type="radio"/> John Doe Independent	<input type="radio"/> Yes <input type="radio"/> No	<u>Title:</u>
For Register of Deeds, you may vote for <u>one</u> or leave it blank		<u>Attorney General Explanation:</u>
	Justice John Doe, representing the ____ Supreme Court District	
<input type="radio"/> John Doe Party Label	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes
<input type="radio"/> John Doe Party Label		<input type="radio"/> No
	Judge of the Circuit Court	Initiated Measure(s)
<input type="radio"/> John Doe Independent	For ____ Circuit, Position __, you may vote for <u>one</u> or leave it blank	The following initiated measure(s) (was/were) proposed by petition for submission to the voters. Th(is/ese) initiated measure(s) will not become effective unless approved by majority vote.
For Coroner, you may vote for <u>one</u> or leave it blank		Initiated Measure 1
<input type="radio"/> John Doe Party Label	<input type="radio"/> John Doe	<u>Title:</u>
	<input type="radio"/> John Doe	<u>Attorney General Explanation:</u>
<input type="radio"/> John Doe Party Label		
	Water Development District	<input type="radio"/> Yes
<input type="radio"/> John Doe Independent	For ____ District Director, ____ Water Development District, you may vote for <u>one</u> or leave it blank	
For County Commissioner, District __, you may vote for <u>one</u> or leave it blank		<input type="radio"/> No
<input type="radio"/> John Doe Party Label	<input type="radio"/> John Doe	Referred Law(s)
		The following law(s) (was/were) adopted by the Legislature and referred to the voters by petition. Th(is/ese) law(s) will not become effective unless approved by majority vote.
<input type="radio"/> John Doe Party Label	<input type="radio"/> John Doe	Referred Law 2
<input type="radio"/> John Doe Independent	Heartland Consumers Power District	<u>Title:</u>
For County Commissioner At Large, you may vote for up to __ or leave it blank	For ____ District Director, you may vote for <u>one</u> or leave it blank	<u>Attorney General Explanation:</u>
<input type="radio"/> John Doe Party Label	<input type="radio"/> John Doe	<input type="radio"/> Yes
<input type="radio"/> John Doe Party Label	<input type="radio"/> John Doe	<input type="radio"/> No
<input type="radio"/> John Doe Party Label		
<input type="radio"/> John Doe Party Label		
<input type="radio"/> John Doe Independent		
<input type="radio"/> John Doe Independent		
Go to top of next column	Go to top of next column	Turn Page

Printing note: The top right corner of the front side of each ballot must be cut off approximately as indicated by the dashed line on the ballot form. ~~If two or more candidates for state representative or county commission are to be elected at large, candidates' names on that portion of the ballot may not be placed directly opposite each other, but must be staggered as shown above.~~

Source: 2 SDR 5, effective July 30, 1975; 2 SDR 46, effective December 30, 1975; 6 SDR 25, effective September 24, 1979; 8 SDR 24, effective September 16, 1981; 12 SDR 43, effective September 23, 1985; 19 SDR 12, effective August 5, 1992; 22 SDR 95, effective January 18, 1996; 23 SDR 236, effective July 17, 1997; 27 SDR 146, effective July 9, 2001; 28 SDR 99, effective January 17, 2002; 29 SDR 177, effective July 2, 2003.

General Authority: SDCL 12-1-9(2).

Law Implemented: SDCL 12-16-2.1, 12-16-9, 12-16-10.

5:02:06:01.02. Optical scan ballot instructions.

The instructions to voters found on optical scan ballots shall be enclosed in a box. The appropriate instructions shall be placed at the top of the first column containing presidential electors (line 1 and 7) or presidential delegates and alternates (line 2 and 7), at the beginning of the portion containing other candidates (line 3 and 7) and at the beginning of the portion containing ballot questions (line 4 and 7). The instructions for all elections must be in the following form without line numbers:

- (1) To vote for a group of presidential electors fill in FILL IN the oval (●) next to the names.
- (2) To vote for a group of presidential delegates and alternates fill in FILL IN the oval (●) next to the names.
- (3) To vote for a person fill in FILL IN the oval (●) next to the name.
- (4) To vote on a ballot question fill in FILL IN the oval (●) next to "yes" or "no".
- (5) Use only a pencil; or pen or marker.
- (6) If you make a mistake, give the ballot back and get a new one.
- (7) DO NOT cast more votes than are allowed in each race.

Printers note: ~~The instruction to "Use only a pencil, pen or marker."~~ Lines 5 and 6 should shall be included in the first instruction box only. For line 5, specify "pencil or pen", Use either "pencil"; or "pen" as appropriate for your system. or "marker" which ever is correct for your system. If the ballot has columns, the words "Go to top of next column" ~~should shall~~ be printed on the bottom of any column preceding each column to be voted. If the ballot has races on the back side, the words "Turn page" ~~should shall~~ be printed in the lower right corner.

Source: 22 SDR 95, effective January 18, 1996; 23 SDR 236, effective July 17, 1997; 26SDR168, effective June 25, 2000; 28 SDR 99, effective January 17, 2002; 29 SDR 113, effective January 30, 2003; 29 SDR 177, effective July 2, 2003; 31 SDR 35, effective September 23, 2004; 32 SDR 109, effective December 26, 2005; 32 SDR 225, effective July 3, 2006.

General Authority: SDCL 12-1-9(2).

Law Implemented: SDCL 12-16-9.

5:02:06:03. Judiciary.

The judiciary ballots must be buff or tan and must be in the following form:

OFFICIAL NONPOLITICAL JUDICIARY BALLOT
_____, County, South Dakota
(Election Date)

To vote use a cross (X) or check mark (✓) in the square in front of the name. DO NOT cast more votes than are allowed in each race.

FOR JUDGE OF THE CIRCUIT COURT
_____, Circuit, Position _____

You may vote for one or leave it blank:

- ☐ John Jones
☐ Joan Ray

Source: 2 SDR 5, effective July 30, 1975; 2 SDR 46, effective December 30, 1975; 4 SDR 26, effective October 27, 1977; 5 SDR 31, effective November 1, 1978; 6 SDR 25, effective September 24, 1979; 8 SDR 24, effective September 16, 1981; 10 SDR 27, effective September 26, 1983; 14 SDR 19, effective August 9, 1987; 25 SDR 8, effective August 3, 1998; 28 SDR 99, effective January 17, 2002; 29 SDR 177, effective July 2, 2003.

General Authority: SDCL 12-1-9(2).

Law Implemented: SDCL 12-9-13, 12-16-2.1.

5:02:06:03.01. Supreme Court justice retention ballot. Repealed.

~~—The retention question for a Supreme Court justice shall be on the general election optical scan ballot and shall be in the following form:~~

~~OFFICIAL NONPOLITICAL SUPREME COURT JUSTICE RETENTION BALLOT~~

~~Shall the justice(s) of the Supreme Court named on this ballot, whose term(s) expire(s) (date), be retained in office?~~

~~VOTE ON EACH JUSTICE~~

~~_____ Justice John Doe, representing the _____ ☐ Yes
_____ Supreme Court District _____ ☐ No~~

~~_____ Justice John Roe, representing the _____ ☐ Yes
_____ Supreme Court District _____ ☐ No~~

Source: 10 SDR 27, effective September 26, 1983; 19 SDR 12, effective August 5, 1992; 32 SDR 225, effective July 3, 2006.

General Authority: SDCL 12-1-9(2).

Law Implemented: SDCL 16-1-2, 16-1-2.2.

5:02:06:13. Municipal questions election.

The municipal questions ballot must be white and must be in the following form:

OFFICIAL MUNICIPAL ELECTION BALLOT
_____, SOUTH DAKOTA

(Election Date)

The following (initiated measure or referred ordinance or referred resolution) was proposed by petition for submission to the voters. This (initiated measure or referred ordinance or referred resolution) will not become effective unless approved by majority vote.

Title: (HERE LIST TITLE OF INITIATIVE OR REFERENDUM TO BE VOTED ON)

City Attorney Explanation: (HERE LIST CITY ATTORNEY'S EXPLANATION)

To vote use a cross (X) or check mark (✓) in the square in front of "Yes" or "No".

☐ Yes A vote "Yes" will (change city ordinance)(adopt the ordinance)(adopt the resolution).

☐ No A vote "No" will (leave the city ordinance as it is)(not adopt the ordinance)(not adopt the resolution).

Source: 4 SDR 26, effective October 27, 1977; 14 SDR 19, effective August 9, 1987; 16 DR 20, effective August 10, 1989; 20 SDR 4, effective July 19, 1993; 28 SDR 99, effective January 17, 2002; 32 SDR 225, effective July 3, 2006.

General Authority: SDCL 12-1-9(2).

Law Implemented: SDCL 9-20-13.

Chapter 5:02:08

Petitions

Sec.

5:02:08:00. Guidelines for acceptance of petitions.

5:02:08:00.01. Requirements for counting signatures on petitions.

5:02:08:00.02. Sections of petition.

5:02:08:00.03. Form of petition.

5:02:08:00.04. Validity of petition signature when signer has signed more petitions than offices to be nominated.

5:02:08:00.05. Random sampling method for constitutional amendment, statutory initiative and referendum petitions.

5:02:08:01. Form of nominating petition - Partisan election.

5:02:08:02. Form of petition for circuit court judge - Nonpartisan election.

5:02:08:03 and 5:02:08:04. Repealed.

5:02:08:05. Certificate of nomination for independent candidate.

5:02:08:05.01. Independent candidate declaration of candidacy and certification of running mate.

5:02:08:06. Form of declaration for new political party.

5:02:08:07. Form of initiative petition.

5:02:08:07.01. Affidavit to be filed with completed initiative, referendum, or initiated constitutional amendment petition.

5:02:08:08. Form of referendum petition.

5:02:08:09. Form of initiated constitutional amendment petition or initiated petition for repeal of constitutional provision.

5:02:08:10. Repealed.

5:02:08:11. Nominating petition for school board member.

5:02:08:12. Reserved.

5:02:08:13. Nominating petition for municipal election.

5:02:08:14. Repealed.

5:02:08:15. Municipal initiative petition.

- 5:02:08:16. Municipal referendum petition.
- 5:02:08:17. Municipal petition for recall.
- 5:02:08:18. County initiative petition.
- 5:02:08:19. County referendum petition.
- 5:02:08:20. Certificate of nomination for independent presidential electors.
- 5:02:08:21. Form of petition to increase or decrease number of county commissioners.
- 5:02:08:22. Form of petition to increase or decrease number of members of school board.
- 5:02:08:23. Form of petition for change in municipal government.
- 5:02:08:24. Form of petition for water development district director.
- 5:02:08:25. Form of petition for irrigation district director by division.
- 5:02:08:26. Form of petition for irrigation district director at large.
- 5:02:08:27. Form of petition for water project district director by division.
- 5:02:08:28. Form of petition for water project district director at large.
- 5:02:08:29. Form of petition for school district reorganization through dissolution.
- 5:02:08:30. Form of petition for multiple school district reorganization to create a new district.
- 5:02:08:31. Form of petition for reconsideration of rejected school district reorganization plan.
- 5:02:08:32. Form of petition for combining county offices.
- 5:02:08:33. Form of petition for combining a county office with the same office in other counties.
- 5:02:08:34. Form of nominating petition for township election.
- 5:02:08:35. Form of nominating petition for road or sanitary district trustee.
- 5:02:08:36. Form of petition for taxpayer of real property conservation district supervisor -- Nonpartisan election.
- 5:02:08:37. Form of petition for urban area conservation district supervisor -- Nonpartisan election.
- 5:02:08:38. Form of petition for rural land owner or occupier conservation district supervisor -- Nonpartisan election.
- 5:02:08:39. Form of petition for organization of a county road, ambulance, rural fire protection, sanitary, watershed, or water project district.
- 5:02:08:40. Form of petition for a resolution of cooperation or consolidation.
- 5:02:08:41. Form of petition for referring a tax levy opt-out.

5:02:08:00.01. Requirements for counting signatures on petitions.

Requirements for counting signatures on a petition sheet are as follows:

(1) No signature on a petition sheet may be counted if one of the following conditions is present:

- (a) The form of the petition does not meet the requirements of this chapter;
- (b) The circulator's verification is not completed or is improperly completed, according to subdivision 5:02:08:00(3) unless the missing information is completed elsewhere on the petition sheet. A complete circulator's verification must include the printed name of the circulator, the circulator's residence address as provided in subdivision 5:02:08:00.01(2)(c), and complete date; or
- (c) The declaration of candidacy has not been completed on or after the first date to circulate the petition, and signed by the candidate and the signature witnessed by an official empowered to administer oaths in South Dakota; and

(2) An individual signature on a petition sheet may not be counted if one of the following conditions is present:

- (a) It was signed prior to the signing of the candidate's declaration of candidacy or, if for a ballot question, it was signed before a copy of the text was filed with the secretary of state;
- (b) It was signed after the circulator completed the verification;

(c) The residence address does not include a street and house number or a rural route and box number and the town. If the signer is a resident of a second or third class municipality, a post office box number may be used. If the signer does not have a residence address or post office box number, a description of the residence location must be provided. If the signer is a resident of a building with a publicly known name, the building name may be used;

(d) The ~~complete~~ date of signing, including month, and day, ~~and year~~, is not indicated; ~~or~~

(e) ~~Any information required by the petition form is incomplete or omitted~~ The signer's name is not printed and legible; or

(f) The signer's county of voter registration is not provided.

Source: 10 SDR 27, effective September 26, 1983; 12 SDR 43, effective September 23, 1985; 14 SDR 19, effective August 9, 1987; 16 SDR 20, effective August 10, 1989; 19 SDR 12, effective August 5, 1992; 21 SDR 77, effective October 24, 1994; 26SDR168, effective June 25, 2000.

General Authority: SDCL 12-1-9(6).

Law Implemented: SDCL 2-1-2, 2-1-2.1, 2-1-4, 9-13-11, 12-1-1, 12-1-1.1, 12-1-2, 12-6-8, 13-7-6.

New Rule

5:02:08:00.04. Validity of petition signature when signer has signed more petitions than offices to be nominated.

The first signature presented to the filing office which meets the requirements of §§ 5:02:08:00 and 5:02:08:00.01 is considered to be valid, if a signature appears on more nominating petitions than offices to be nominated. Later submitted duplicate signatures are not valid.

Source:

General Authority: SDCL 12-1-9(4).

Law Implemented: SDCL 12-6-8. 9-13-7, 13-7-6.

New Rule

5:02:08:00.05. Methodology for conducting the random sample for an initiative petition, referred law petition, or initiated constitutional amendment petition.

Upon receiving any initiative petition, referred law petition, or initiated constitutional amendment petition, the secretary of state shall use the following method for conducting the random sample:

- (1) Each sheet within the petition shall be consecutively numbered.
- (2) The number of eligible signature lines on a petition sheet is based on the highest numbered signature line on the petition sheet that contains information. If a signature line is empty or crossed out within the range of signature lines that contain information the signature line is included. If a signature line is empty or contains only abstract markings and is outside the range of signature lines that contain information the signature line is not included.
- (3) A spreadsheet shall be created and shall list each petition sheet number from (1) and the number of eligible signature lines on each petition sheet as determined by (2).
- (4) The sum of the eligible signature lines on each petition sheet is the total number of signatures received.

- (5) The random sampling function (RAND) in the spreadsheet shall be used to identify five percent of the eligible signature lines in the petition.
- (6) To determine the number of valid signatures in the five percent sample, each signature line identified in (5) shall be evaluated pursuant to ARSD §§ 5:02:08:00 and 5:02:08:00.01. In addition, no signature line may be counted unless the person is a registered voter in the county indicated on the signature line.
- (7) The number of valid signatures determined in (6) is divided by the number of signature lines identified in (5). The resulting decimal is multiplied by the total number of eligible signatures received.
- (8) If the product of (7) is equal to or greater than the required number of signatures needed to file the petition, the secretary of state shall certify the petition as filed.
- (9) If the product of (7) is less than the required number of signatures need to file the petition, the secretary of state shall certify the petition as not filed.

Source:

General Authority: SB2 Section 2

Law Implemented: SB2 Section 2

5:02:08:01. Form of nominating petition - Partisan election

Nominating petitions for a partisan election must be in the following form:

NOMINATING PETITION FOR PARTISAN ELECTION

____ Party

INSTRUCTIONS TO CANDIDATE: The heading of this petition and the declaration of candidacy must be fully completed before the petition is circulated for signatures.

WE, THE UNDERSIGNED qualified voters of _____ (here insert the jurisdiction in which the office is sought: name of county, number of legislative district, or "state") of South Dakota and members of the _____ Party, nominate _____ of _____ County, South Dakota, whose mailing address is _____, _____, SD _____, and whose residence address is _____, _____, SD _____, as a candidate for the office of _____ at the primary election to be held June _____, 19 20_____.

DECLARATION OF CANDIDATE

I, _____ (print name here exactly as you want it on the election ballot), under oath, declare that I am eligible to seek the office for which I am a candidate, that I am registered to vote as a member of the _____ Party, and that if I am a legislative candidate I reside in the district from which I am a candidate. If nominated and elected, I will qualify and serve in that office.

(Signed) _____

Sworn to before me this _____ day of _____, 19 20_____.

(Seal)

Signature of Officer Administering Oath

My Commission Expires _____

Title of Officer Administering Oath

The balance of this petition form is prescribed in § 5:02:08:00.03.

Source: 2 SDR 5, effective July 30, 1975; 2 SDR 46, effective December 30, 1975; 5 SDR 31, effective November 1, 1978; 6 SDR 25, effective September 24, 1979; 8 SDR 24, effective September 16, 1981; 10 SDR 27, effective September 26, 1983; 16 SDR

20, effective August 10, 1989; 16 SDR 203, effective May 28, 1990; 25 SDR 8, effective August 3, 1998.

General Authority: SDCL 12-1-9(7).

Law Implemented: SDCL 12-6-5, 12-6-8.

5:02:08:05. Certificate of nomination for independent candidate

The certificate of nomination for an independent candidate shall be in the following form:

CERTIFICATE OF NOMINATION FOR INDEPENDENT CANDIDATE

INSTRUCTIONS TO CANDIDATE: The heading of this petition and the declaration of candidacy must be fully completed before the petition is circulated for signatures.

WE, THE UNDERSIGNED qualified voters of _____ (here insert the jurisdiction in which the office is sought: name of county, number of legislative district or "state") of South Dakota, nominate _____ of _____ County, whose mailing address is _____, SD _____, and whose residence address is _____, SD _____, as an Independent candidate ~~affiliated with the~~ party for the office of _____ at the general election to be held November _____, 19 20_____.

DECLARATION OF CANDIDATE

I, _____ (print name here exactly as you want it on the election ballot), under oath, declare that I am eligible to seek the office for which I am a candidate and that if I am a legislative candidate I reside in the district from which I am a candidate. If elected, I will qualify and serve in that office.

(Signed) _____
Sworn to before me this _____ day of _____, 19 20_____.
(Seal)

Signature of Officer Administering Oath _____
My Commission Expires _____

Title of Officer Administering Oath _____

The balance of this petition form is as prescribed in § 5:02:08:00.03.

Source: 2 SDR 46, effective December 30, 1975; 4 SDR 85, effective June 14, 1978; 6 SDR 25, effective September 24, 1979; 8 SDR 24, effective September 16, 1981; 16 SDR 20, effective August 10, 1989; 16 SDR 203, effective May 28, 1990.

General Authority: SDCL 12-1-9.

Law Implemented: SDCL 12-6-5, 12-6-8, 12-7-1.

5:02:08:05.01. Independent candidate declaration of candidacy and certification of running mate.

The declaration of candidacy and certification of running mate for independent candidates for president and governor must be in the following form:

INDEPENDENT CANDIDATE FOR PRESIDENT OR GOVERNOR DECLARATION OF CANDIDATE AND

CERTIFICATION OF RUNNING MATE

I, _____ (name of candidate), under oath, declare that I am eligible to seek the office of _____ (insert President of the United States or Governor). I certify that I have named _____ as my _____ (insert Vice President or Lieutenant Governor) candidate.

(Candidate Signature) _____

Sworn to before me this ____ day of _____, 20____.

(Seal)

Signature of Officer Administering Oath

My Commission Expires _____

Title of Officer Administering Oath

I, _____ (print name here exactly as you want it on the election ballot), under oath, declare that I am eligible to seek the office of _____ (insert Vice President or Lieutenant Governor), ~~that I am registered as a member of the _____ Party~~ and agree to serve as a candidate for this office.

(Running Mate Signature) _____

Sworn to before me this ____ day of _____, 20____.

(Seal)

Signature of Officer Administering Oath

My Commission Expires _____

Title of Officer Administering Oath

Source: 25 SDR 167, effective July 6, 1999; 29 SDR 113, effective January 30, 2003.
General Authority: SDCL 12-7-1, 12-1-9(7)
Law Implemented: SDCL 12-7-1, 12-7-7

5:02:08:07. Form of initiative petition

The initiative petition shall be in the following form:

INITIATIVE PETITION

WE, THE UNDERSIGNED qualified voters of the state of South Dakota, petition that the following proposed law be submitted to the voters of the state of South Dakota at the general election on November ____, ____ for their approval or rejection pursuant to the Constitution of the State of South Dakota.

The substance of the proposed law is as follows:

Be it enacted by the people of South Dakota.

~~The balance of this petition form is as prescribed in § 5:02:08:00.03.~~

(Here insert instructions to voters and signature blanks prescribed in § 5:02:08:00.03.)

VERIFICATION BY PERSON CIRCULATING PETITION

INSTRUCTIONS TO CIRCULATOR: This section (bold) **must** (unbold) be completed following circulation and before filing.

Print name of the circulator Residence Address City State

I, under oath, state that I circulated the above petition, that each signer personally signed this petition in my presence, that I made reasonable inquiry and to the best of my knowledge each person signing the petition is a qualified voter in the county indicated on the signature line, that no state statute regarding petition circulation was knowingly violated, and that either the signer or I added the printed name, the residence address of the signer, the date of signing, and the county of voter registration.

Signature of Circulator
Sworn to before me this _____ day of _____.
(Seal)

Signature of Officer Administering Oath
My Commission Expires _____

Title of Officer Administering Oath

Source: 2 SDR 46, effective December 30, 1975; 3 SDR 69, effective April 10, 1977; 6 SDR 25, effective September 24, 1979; 16 SDR 20, effective August 10, 1989; 26SDR168, effective June 25, 2000.
General Authority: SDCL 12-1-9(7).
Law Implemented: SDCL 2-1-1, 2-1-7, 2-1-10.

5:02:08:08. Form of referendum petition

The petition of referendum shall be in the following form:

REFERENDUM PETITION

WE, THE UNDERSIGNED qualified voters of the state of South Dakota, petition that the following law, as enacted by the Legislature of the state of South Dakota, be submitted to the voters of the state of South Dakota at the general election on November ____, ____ for their approval or rejection pursuant to the Constitution of the state of South Dakota.

(Here insert the title of law to be submitted and date of its passage and approval.)

~~The balance of this petition form is as prescribed in § 5:02:08:00.03.~~

~~(Here insert instructions to voters and signature blanks prescribed in § 5:02:08:00.03.)~~

VERIFICATION BY PERSON CIRCULATING PETITION

INSTRUCTIONS TO CIRCULATOR: This section (bold) **must** (unbold) be completed following circulation and before filing.

Print name of the circulator Residence Address City State

I, under oath, state that I circulated the above petition, that each signer personally signed this petition in my presence, that I made reasonable inquiry and to the best of my knowledge each person signing the petition is a qualified voter in the county indicated on the signature line, that no state statute regarding petition circulation was knowingly violated, and that either the signer or I added the printed name, the residence address of the signer, the date of signing, and the county of voter registration.

Signature of Circulator
Sworn to before me this _____ day of _____.

(Seal)

Signature of Officer Administering Oath

My Commission Expires

Title of Officer Administering Oath

Source: 2 SDR 46, effective December 30, 1975; 3 SDR 69, effective April 10, 1977; 6 SDR 25, effective September 24, 1979; 16 SDR 20, effective August 10, 1989; 26SDR168, effective June 25, 2000.

General Authority: SDCL 12-1-9(7).

Law Implemented: SDCL 2-1-3, 2-1-7, 2-1-10.

5:02:08:09. Form of initiated constitutional amendment petition or initiated petition for repeal of constitutional provision

The petition for initiated constitutional amendment or repeal shall be in the following form:

INITIATED CONSTITUTIONAL AMENDMENT PETITION

or

INITIATED PETITION FOR REPEAL OF CONSTITUTIONAL PROVISION

WE, THE UNDERSIGNED qualified voters of the state of South Dakota, petition that the following section or sections and article or articles of the South Dakota Constitution be (repealed) (amended) and that this proposal be submitted to the voters of the state of South Dakota at the general election on November __, __ for their approval or rejection.

(Here identify the section or sections and article or articles proposed to be repealed or amended. State the exact text of the amendment.)

~~The balance of this petition form is as prescribed in § 5:02:08:00.03.~~

(Here insert instructions to voters and signature blanks prescribed in § 5:02:08:00.03.)

VERIFICATION BY PERSON CIRCULATING PETITION

INSTRUCTIONS TO CIRCULATOR: This section (bold) **must** (unbold) be completed following circulation and before filing.

Print name of the circulator Residence Address City State

I, under oath, state that I circulated the above petition, that each signer personally signed this petition in my presence, that I made reasonable inquiry and to the best of my knowledge each person signing the petition is a qualified voter in the county indicated on the signature line, that no state statute regarding petition circulation was knowingly violated, and that either the signer or I added the printed name, the residence address of the signer, the date of signing, and the county of voter registration.

Signature of Circulator

Sworn to before me this day of .

(Seal)

Signature of Officer Administering Oath

My Commission Expires

Title of Officer Administering Oath

Source: 2 SDR 46, effective December 30, 1975; 3 SDR 69, effective April 10, 1977; 6 SDR 25, effective September 24, 1979; 16 SDR 20, effective August 10, 1989; 26SDR168, effective June 25, 2000.
General Authority: SDCL 12-1-9(7).
Law Implemented: S.D. Constitution, art XXIII, § 1; SDCL 2-1-2.1.

5:02:08:20. Certificate of nomination for independent presidential electors

The certificate of nomination for independent presidential electors shall be in the following form:

CERTIFICATE OF NOMINATION FOR INDEPENDENT PRESIDENTIAL ELECTORS
AFFILIATED WITH THE _____ PARTY
INSTRUCTIONS TO CANDIDATES: The heading of this petition and the declarations of candidacy must be fully completed before the petition is circulated for signatures.

WE, THE UNDERSIGNED qualified voters of the state of South Dakota, nominate _____ of _____ County, whose mailing address is _____; _____ of _____ County, whose mailing address is _____; _____ of _____ County, whose mailing address is _____, as independent candidates ~~affiliated with the _____ Party~~ for the office of Presidential Electors for _____ and _____ at the General Election to be held November ____, 19 20 .

DECLARATION OF CANDIDATES
We, under oath, declare that we reside in _____, _____, and _____ Counties, respectively, and that we are or will be eligible to seek the offices for which we are candidates. If elected, we will qualify and serve in those offices.

(Signed) _____
(Signed) _____
(Signed) _____

Sworn to before me this ____ day of _____, 19 20 .

(Seal)

My Commission Expires _____

Signature of Officer Administering Oaths

Title of Officer Administering Oaths

The balance of this petition form is as prescribed in § 5:02:08:00.03.

Source: 6 SDR 25, effective September 24, 1979; 10 SDR 27, effective September 26, 1983; 16 SDR 20, effective August 10, 1989.
General Authority: SDCL 12-1-9.
Law Implemented: SDCL 12-6-5, 12-6-8, 12-7-1, 12-7-7.

5:02:09:01.02. Test of tabulating equipment.

The person in charge of the election shall conduct tests of the automatic tabulating equipment as required in SDCL 12-17B-5 and 12-17B-12. The tests shall be conducted by processing a preaudited group of ballots in a test deck marked to record a predetermined number of valid votes for each candidate and each measure. An edit listing shall first be created to determine how the sample of ballots will be marked and what the machine vote totals must be to prove an errorless count. If more than one

ballot is to be used in the election, a test deck shall be made for each ballot that is unique in any way. The test deck(s) shall include for each office and ballot question:

- (1) One or more ballots with a vote for each candidate and each side of a ballot question;
- (2) One or more ballots which have votes in excess of the number allowed by law for each office and question; and
- (3) One or more ballots which contain an undervote.

At least twenty-five test ballots shall be included in the total of all test decks. Individual test decks for individual ballots shall be of sufficient size to prove the accuracy of the system counted during the test. If absentee ballots are to be received folded, at least ten percent of the test ballots in any individual test deck shall be similarly folded. The person conducting the test of the tabulating equipment shall date and sign the printout, verifying that as verification that the test was completed and that an errorless count was received the results of the machine's printed paper vote totals exactly match the edit listing from which the sample of ballots was marked. The test deck, edit listing, and signed printout must be secured and retained with the official ballots.

If more than one tabulating machine is to be used in the election, each machine shall be fully tested according to the ballot(s) which it will be used to count in the election.

In addition to these tests, the test deck may be processed any time before or after completion of the official count.

Source: 8 SDR 81, effective January 10, 1982; 21 SDR 77, effective October 24, 1994; 23 SDR 236, effective July 17, 1997; 29 SDR 113, effective January 30, 2003.

General Authority: SDCL 12-17B-17.

Law Implemented: SDCL 12-17B-5, 12-17B-12.

5:02:09:02. Approval of automatic tabulating systems required before distribution.

Prior to distribution in South Dakota, a company or corporation dealing in automatic tabulating, direct recording electronic, or electronic ballot marking systems shall give written notice to the state board of elections and demonstrate that its system complies with SDCL 12-17B-2, and § 5:02:09:02.01, § 5:02:09:02.02, or § 5:02:09:02.03 and is certified as fulfilling the requirements of the Election Assistance Commission 2002 voting system standards by an independent test authority accredited by the ~~National Association of State Election Directors or the~~ Election Assistance Commission. If the state board of elections approves the system, it shall issue a certificate of approval. ~~Any system approved prior to December 15, 1995 may continue to be sold and operated in South Dakota without certification from an independent test authority.~~

Any changes or modifications in an approved electronic voting system may be certified by the state board of elections with or without the demonstration described in this section for initial approval provided that the modified system has been certified as fulfilling the requirements of the Election Assistance Commission voting system standards by an independent test authority accredited by the ~~National Association of State Election Directors or the~~ Election Assistance Commission.

Source: 2 SDR 5, effective July 30, 1975; 6 SDR 25, effective September 24, 1979; 16 SDR 203, effective May 28, 1990; 21 SDR 77, effective October 24, 1994; 22 SDR 95, effective January 18, 1996; 29 SDR 113, effective January 30, 2003; 32 SDR 109, effective December 26, 2005.
General Authority: SDCL 12-17B-17.
Law Implemented: SDCL 12-17B-2.

5:02:09:04.03. Arrangements for and conduct of voting in precincts where automatic tabulating systems used.

The following procedures apply to the arrangements for and conduct of voting in precincts where automatic tabulating systems are used:

(1) The precinct officials shall prepare the voting place before the opening of the polls with all the voting booths, instructions to voters, other voting equipment, and supplies as provided by the person in charge of the election. These preparations must be made according to the instructions received at the election school held for precinct officials pursuant to SDCL 12-15-7. If an electronic ballot marking system is being used, it must be operational and tested as provided in § 5:02:09:04.05;

(2) The precinct official charged with the duty of issuing the ballot to the voter shall mark the ballot with the official ballot stamp in the location designated by the person in charge of the election;

(3) The official shall issue the ballot along with any other system equipment required for marking the ballot. If requested by the voter, the official shall issue clear instructions or demonstrations for marking the ballot with only the instrument provided and according to the instructions on the ballot and those posted throughout the voting place. The official shall specifically inform the voter that marking the ballot with any instrument other than the one issued could result in the ballot not being counted. All instructions must be given prior to the voter entering the voting booth, except a voter may receive instruction on operating an electronic ballot marking system while using the system;

(4) A precinct official, in the course of instructing a voter, may not show partiality to any political party or any side of a measure being voted on;

(5) Precinct officials shall discharge the duties of instruction with each political party alternating a turn so as to ensure a nonpartisan presentation;

(6) In precincts using optical scan ballots, the official shall instruct the voter to return the voted ballot in the privacy sleeve so that the official ballot stamp is visible by the official before the ballot is placed in the box. The precinct official shall place any ballot without the official ballot stamp in a separate marked envelope not to be counted and give the voter a new ballot;

(7) Upon completion of the voting on election night, the precinct officials shall complete the recap sheet prescribed in § 5:02:09:16. If the ballot count does not agree with the number of voters in the pollbook, the precinct officials shall compare the voters in the pollbook and the registration list and correct any mistakes;

(8) The precinct officials shall securely ~~lock and seal the ballot box with a locking device and seal label to secure or cover any open slot in the box and to identify the box according to 5:02:16:37;~~

(9) The voted ballots and all spoiled and unvoted ballots are to be transported pursuant to SDCL 12-17B-9 to the person in charge of the election;

(10) Precinct officials shall secure in the polling place the equipment and supplies that were issued for the purpose of voting or shall return them to the person in charge of the election.

Source: 21 SDR 77, effective October 24, 1994; 23 SDR 236, effective July 17, 1997; 30 SDR 171, effective May 10, 2004; 32 SDR 225, effective July 3, 2006.

General Authority: SDCL 12-17B-17.

Law Implemented: SDCL 12-17B-6, 12-17B-7, 12-17B-9.

Cross-Reference: Recapitulation sheet, § 5:02:09:16.

5:02:09:04.04. Tabulation procedures.

The procedures for receiving, preparing, and tabulating the ballots are as follows:

(1) The tabulation technicians shall compare the total number of ballots shown on the return printed by the equipment and the total number of ballots shown on the recap sheet from the precinct officials. If there is a discrepancy in the total number of ballots cast in any precinct, the tabulation technicians shall note the discrepancy on the recap sheet, the sheet shall be signed by a tabulation technician and notice given to the resolution board;

(2) If the total number of ballots exceed by five or more the number of names in the pollbook as found on the recap sheet, the ballots shall be examined by the resolution board for the official ballot stamp. Any unstamped ballots shall be removed and marked as "unstamped - not counted." If the total number of ballots still exceeds the number of names in the pollbook, the ballots shall be placed in a box and one of the resolution board shall publicly draw from the box the number of ballots that is equal to the excess. The ballots shall then be counted by the tabulation equipment and the count shall be included with the other tabulations to constitute the compiled unofficial returns;

(3) If a ballot is rejected by the automatic tabulating equipment, the resolution board shall review the ballot as follows:

(a) If the resolution board determines that the ballot is damaged or defective, a duplicate shall be made of the ballot. All duplicate ballots shall clearly be marked "duplicate," shall bear a serial number which is also recorded on the original ballot. This ballot shall then be counted by the automatic tabulating equipment in lieu of the original ballot;

(b) If the resolution board ~~determines~~ decides that the tabulating equipment cannot read a mark ~~vote because of improper markings~~, the resolution board shall ~~endeavor to determine if the mark is a vote according to 5:02:09:22a~~ vote as defined by law and administrative rule has been cast. If the resolution board cannot reach a joint conclusion, the board shall follow the procedure for creating a duplicate ballot described in subdivision (3)(a) of this section but not record any vote for the candidate or question in dispute. If the resolution board does not reach a joint conclusion for all of the marks ~~votes~~ on the ballot, the board shall reject the ballot and mark it as such. If the resolution board reaches a joint conclusion, the board shall follow the procedure for creating a duplicate ballot described in subdivision (3)(a) of this section.

Source: 21 SDR 77, effective October 24, 1994; 29 SDR 113, effective January 30, 2003.

General Authority: SDCL 12-17B-17(4).

Law Implemented: SDCL 12-17B-13, 12-17B-14.

5:02:09:05. Recount procedure.

The following procedure shall be used in recounting any election counted by an automatic tabulating system:

(1) If a discrepancy in the number of ballots for a precinct is discovered during ballot tabulation and is not resolved at that time, the county auditor shall make every effort to resolve the discrepancy following the official county canvass and prior to the convening of the recount board;

(2) The recount board shall first examine each ballot to determine if the official stamp has been placed on the ballot and may not count any vote on an unstamped ballot;

(3) If any discrepancy remains after subdivisions (1) and (2) have been completed and the total number of ballots in a precinct exceeds the number of names in the pollbook, the ballots shall be placed in a box and the recount board shall draw from the box the number of ballots that is equal to the excess and place these in an envelope labeled "ballots drawn by recount board to justify totals";

(4) The recount board shall review ballots for proper marking procedure according to the voting instructions. Each ballot marked in a manner other than as provided in the instructions to voter and which may not be counted by the machine shall be hand counted or duplicated in the manner used by a resolution board and the duplicate counted by machine. The recount board shall determine the voter's intent based on the standards found in ARSD ~~5:02:09:19 to 5:02:09:22, inclusive~~;

~~(5) The recount board shall review each ballot to determine if there are any write-in votes. Any write-in vote may not be counted but all other votes for which the voter's intent can be determined shall be counted;~~

~~(6) The recount board shall examine the ballots reviewed by the resolution board to determine the correctness of the initial rejection or duplication. The recount board shall rule on whether each attempted vote mark is to be counted or rejected according to §5:02:19:22;~~

(6) The recount board shall test the automatic tabulating equipment according to §5:02:09:01.02. The board may conduct additional tests of the equipment including a comparison with hand-counted results from a precinct;

- (7) The recount board shall count the ballots with the automatic tabulating equipment or by hand;
- (8) The recount board shall complete the Certificate of Disputed Ballot as provided in §5:02:19:09;
- (9) Any question arising on the recount shall be determined by majority vote of the recount board; and
- (10) The recount board shall certify the new returns as printed by the automatic tabulating equipment or as hand counted as the "Official Returns" for the election by completing the Certificate of Recount as provided in §5:02:19:08. The Certificate of Recount shall be filed with the person in charge of the election and shall constitute the final returns for the election in that jurisdiction. If the recount involved an election canvassed by the State Board of Canvassers a duplicate original of the Certificate of Recount shall be forwarded to the secretary of state to be incorporated into the statewide totals as provided by SDCL 12-21-39.

Source: 3 SDR 69, effective April 10, 1977; 6 SDR 25, effective September 24, 1979; 21 SDR 77, effective October 24, 1994; 26 SDR 168, effective June 25, 2000 28 SDR 99, effective January 17, 2002; 29 SDR 177, effective July 2, 2003.

General Authority: SDCL 12-17B-7, 12-17B-17(4).

Law Implemented: SDCL 12-17B-7, 12-17B-16.

5:02:09:13. Envelope for official returns

The ~~official~~ returns printed from the tabulating equipment shall be sealed in a manila envelope clearly labeled "Official Final Unofficial Returns" and kept with the pollbooks until the meeting of the county canvassing board.

Source: 5 SDR 31, effective November 1, 1978; 8 SDR 81, effective January 10, 1982, 20 SDR 4, effective July 19, 1993.

General Authority: SDCL 12-1-9, 12-17B-17.

Law Implemented: SDCL 12-17B-13.

5:02:09:22. Counting imperfectly marked optical scan ballots.

A ~~voting~~ mark that touches the oval on an optical scan ballot shall be counted ~~as if it were on or in the oval.~~ a vote; If the voting any mark that does not touch the oval and is not ~~on or in the oval,~~ the vote may shall not be counted a vote.

Source: 28 SDR 99, effective January 17, 2002; 32 SDR 109, effective December 26, 2005.

General Authority: SDCL 12-1-9(4).

Law Implemented: SDCL 12-1-9(4).

5:02:10:01. Application for absentee ballot.

The application for an absentee ballot must be in the following form:

APPLICATION FOR ABSENTEE BALLOT
_____ COUNTY, SOUTH DAKOTA

You may apply for an absentee ballot for any or all primary, general, or special elections conducted by your county with one request. However, you must make a separate request for municipal elections and another for school elections.

Check the election(s) for which you are requesting an absentee ballot:

- ☐ Primary
☐ General
☐ Municipal
☐ School

☐ Special _____ (specify jurisdiction)

☐ If any other election is conducted by this jurisdiction ~~this year~~, I request an absentee ballot for that election. This application is valid only for elections in this calendar year.

If request is for a municipal or school election:

I have lived in that jurisdiction at least 30 days in the last year. Yes ☐ No ☐

I am a full-time postsecondary student who resided in that jurisdiction immediately prior to leaving for postsecondary education. Yes ☐ No ☐

I am on active duty military and my home of record is in that jurisdiction. Yes ☐ No ☐

My voter registration residence address is: _____
(address) (city)

My printed name as it appears on the voter registration list is: _____

I hereby verify that I am the person named above and these statements made by me are true and correct.

Voter Signature

Sworn to before me this ____ day of _____, 20____.
(Seal)

Signature of Officer Administering Oath

My Commission Expires _____

Title of Officer Administering Oath

NOTE: The voter's signature must be witnessed by a notary public or other officer authorized to administer an oath. If the signature is not witnessed, this application must be accompanied by a copy of the voter's valid ID. If absentee voting at the office of the person in charge of the election, you must show a valid ID or sign a personal ID affidavit.

An acceptable ID is:

- A South Dakota driver's license or nondriver ID card
- A passport or other picture ID issued by the United States government
- A tribal photo ID
- A current student photo ID issued by a South Dakota high school or postsecondary education institution

COMPLETE THIS PORTION IF BALLOT IS TO BE MAILED

Mail my ballot to the following residence address: _____

Daytime phone number: _____ (Street address ~~or PO Box~~)(City)(State)(Zip)

COMPLETE THIS PORTION IF REQUEST IS FOR AN AUTHORIZED MESSENGER TO PICK UP BALLOT (This application must be received by the person in charge of the election before 3:00 p.m. on election day):

I authorize _____ to serve as my authorized messenger to pick up my absentee ballot. I further certify under penalty of law that I am confined because of sickness or disability and for this reason alone am unable to vote at my polling place on election day.

Signature of voter

THE AUTHORIZED MESSENGER MUST COMPLETE THE FOLLOWING:

Name: _____ Phone: _____

Address: _____

Are you serving as an authorized messenger for any other voter? Yes ☐ No ☐

I acknowledge receipt of the ballot for the above-named voter on _____ at _____ m.
(date) (time)

Signature of authorized messenger

Date ballot returned:

Source: 2 SDR 46, effective December 30, 1975; 6 SDR 25, effective September 24, 1979; 8 SDR 24, effective September 16, 1981; 10 SDR 27, effective September 26, 1983; 16 SDR 20, effective August 10, 1989; 16 SDR 203, effective May 28, 1990; 19 SDR 12, effective August 5, 1992; 21 SDR 77, effective October 24, 1994; 23 SDR 115, effective January 22, 1997; 23 SDR 236, effective July 17, 1997; 25 SDR 8, effective August 3, 1998; 25 SDR 167, effective July 6, 1999; 29 SDR 177, effective July 2, 2003; 32 SDR 109, effective December 26, 2005; 32 SDR 225, effective July 3, 2006.

General Authority: SDCL 12-1-9(4), 12-19-2.

Law Implemented: SDCL 9-13-4.1, 12-18-6.1, 12-19-2, 12-19-2.1, 12-19-2.2, 13-7-4.2.

5:02:10:05. Official return envelope for ballots used in voting.

~~Prior to January 1, 2004, the official return envelope for absentee ballots may follow the specifications provided in this section that were effect on November 28, 2001.~~

The official return envelope for the absentee voter's ballot shall conform to the following specifications:

- (1) It is the minimum practicable size and weight;
- (2) Blank lines for the return address of the voter are printed in the upper left corner of the face of the envelope;
- (3) The words, "OFFICIAL BALLOT TO BE VOTED AT _____ Precinct in _____ County, S.D., at the _____ Election." may be printed in the lower left corner of the face of the envelope;
- (4) Between the return address and the postage shall be printed the "medium use" official election mail logo as prescribed by the U.S. Postal Service. There must be a minimum one-quarter inch clear area around the entire logo;
- (5) The words, "Must be received by the person in charge of the election by Election Day or the ballot will not be counted." are printed below the mail logo;
- (6) The return envelope is addressed to the person in charge of the local election in which the home precinct of the absentee voter is situated; and
- (7) The return envelope has the following statement printed on its reverse:

STATEMENT OF ABSENTEE VOTER

I, _____, under penalty of impersonating a registered voter (5 years imprisonment and \$5,000 10,000 fine), state that I am a registered voter in the county, and state named on the front of this envelope, and that I have voted the enclosed ballot.

Signature of Voter

Source: 2 SDR 46, effective December 30, 1975; 6 SDR 25, effective September 24, 1979; 8 SDR 24, effective September 16, 1981; 10 SDR 27, effective September 26, 1983; 12 SDR 43, effective September 23, 1985; 16 SDR 20, effective August 10, 1989; 19 SDR 12, effective August 5, 1992; 21 SDR 77, effective October 24, 1994; 28 SDR 99, effective January 17, 2002; 29 SDR 113, effective January 30, 2003.
General Authority: SDCL 12-1-9(8).
Law Implemented: SDCL 12-19-4.

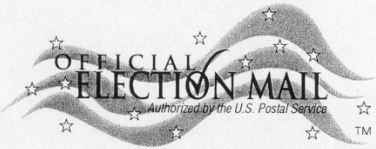
5:02:10:08. Envelopes for use with voting service and overseas ballots.

The envelopes used in connection with voting service and overseas ballots must be printed in black ink and must meet the following federal guidelines:

MAX
Height 6 1/8 inches
Length 11 1/2 inches

MIN
Height 3 1/2 inches
Length 5 1/2 inches
Use Black Ink

BALLOT TRANSMISSION ENVELOPE (SAMPLE)

Name and complete address _____ _____ _____ _____		U.S. Postage Paid 39 USC 3406 PAR AVION
OFFICIAL ABSENTEE BALLOTING MATERIAL - FIRST CLASS MAIL		
NO POSTAGE NECESSARY IN THE U.S. MAELS-DMM 703.8.0		
TO: <div style="border: 1px solid black; height: 40px; width: 100%;"></div>		

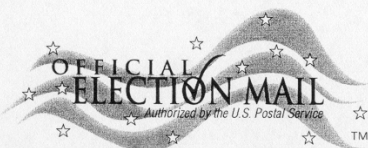
MAX
Height 6 1/8 inches
Length 11 1/2 inches

MIN
Height 3 1/2 inches
Length 5 1/2 inches
Use Black Ink

BALLOT RETURN ENVELOPE

(Sample)

If mailed in non U.S. Postal System - Voter must pay postage

Name and complete address _____ _____ _____ _____	 OFFICIAL ELECTION MAIL <small>Authorized by the U.S. Postal Service</small>	U.S. Postage Paid 39 USC 3406 PAR AVION
OFFICIAL ABSENTEE BALLOTING MATERIAL - FIRST CLASS MAIL		
NO POSTAGE NECESSARY IN THE U.S. MAELS-DMM703.8.0		
<div style="border: 1px solid black; height: 50px; width: 100%;"></div>		

The ballot return envelope must be a white security envelope or heavy manila envelope. The following must be printed on the reverse of the return envelope to the count

y auditor:

I, _____, under penalty of impersonating a registered voter (five years imprisonment and \$5,000 10,000 fine), state that I am a registered voter, that my voting residence is _____, and that I have voted the enclosed ballot.

Dated this ____ day of _____, 20__.

Signature of Voter

Source: 5 SDR 31, effective November 1, 1978; 6 SDR 25, effective September 24, 1979; transferred from 5:02:05:18, 12 SDR 43, effective September 23, 1985; 14 SDR 19, effective August 9, 1987; 16 SDR 20, effective August 10, 1989; 20 SDR 4, effective July 19, 1993; 21 SDR 77, effective October 24, 1994; 25 SDR 8, effective August 3, 1998; 28 SDR 99, effective January 17, 2002; 29 SDR 177, effective July 2, 2003.
General Authority: SDCL 12-1-9(8).
Law Implemented: SDCL 12-19-3, 12-19-4, 12-19-5, 12-26-7.

Chapter 5:02:16

Counting and Canvassing of Ballots

Sec.

5:02:16:00
5:02:16:01
5:02:16:02
5:02:16:03

Definitions.
Delivery of supplies to counting board - Signing of certificate.
Signing of oaths.
Public vote count.

5:02:16:04 Use of tally sheets.
 5:02:16:05 Comparison of registration list and pollbook.
 5:02:16:06 Opening ballot box.
 5:02:16:07 Folded ballots separated.
 5:02:16:08 Duplicate ballots.
 5:02:16:09 Drawing of excess ballots.
 5:02:16:09.01 Endorsing of excess ballots.
 5:02:16:10 Unstamped ballots.
 5:02:16:11 Separation of ballots.
 5:02:16:12 Order of vote counting.
 5:02:16:13 Repealed.
 5:02:16:14 Scrutiny of ballots by counting board.
 5:02:16:15 Tally of ballots.
 5:02:16:16 to 5:02:16:17 Repealed.
 5:02:16:17.01 Write-in votes not counted.
 5:02:16:17.02 Counting imperfectly marked paper ballots.
 5:02:16:18 to 5:02:16:20 Repealed.
 5:02:16:21 Voter's intent to be determined.
 5:02:16:22 Repealed.
 5:02:16:22.01 Use of prior court decision.
 5:02:16:23 to 5:02:16:24 Repealed.
 5:02:16:25 Unofficial returns of precinct vote.
 5:02:16:26 Entry of precinct vote on unofficial return list.
 5:02:16:27 to 5:02:16:30 Repealed.
 5:02:16:31 Signing of certificates.
 5:02:16:32 Repealed.
 5:02:16:33 Procedure for placing voted ballots in the ballot box.
 5:02:16:34 Return of unvoted ballots.
 5:02:16:34.01 Return of duplicate ballots of one voter not counted.
 5:02:16:35 Ballots voted but not counted.
 5:02:16:36 Recapitulation sheet.
 5:02:16:37 Sealing of ballot box.
 5:02:16:38 ~~Use of paper seals on ballot box.~~ Repealed.
 5:02:16:39 Form of the paper seal.
 5:02:16:40 Return and sealing of the pollbook.
 5:02:16:41 Pollbook envelope seal.
 5:02:16:41.01 Return of duplicate tally sheet.
 5:02:16:42 Return of election material.
 5:02:16:43 Purpose of this chapter.
 5:02:16:44 Provisional ballot return envelope.

5:02:16:17.01. Write-in votes not counted.

As each ballot is being examined to determine how the vote was cast for each office, the counting board shall determine if any write-in ~~vote~~ was placed on the ballot. The write-in ~~vote may~~ shall not be counted a vote but all other valid marks ~~votes for which the voter's intent can be determined~~ shall be counted votes.

Source: 26 SDR 168, effective June 25, 2000.

General Authority: SDCL 12-1-9(4).

Law Implemented: SDCL ~~12-18-21.1~~ 12-20-21.2.

5:02:16:17.02. Counting imperfectly marked paper ballots.

A ~~voting~~ mark that touches the circle or square on a paper ballot shall be counted ~~as if it were on or in the circle or square.~~ a vote; ~~If the voting~~ any mark that does not touch the circle or square and is not ~~on or in the circle or square,~~ the vote may shall not be counted a vote.

Source: 28 SDR 99, effective January 17, 2002.
General Authority: SDCL 12-1-9(4).
Law Implemented: SDCL 12-1-9(4).

5:02:16:37. Sealing of ballot box.

Following the deposit of all voted ballots except those in § 5:02:16:34, the counting board or precinct board shall securely seal the ballot box with a metal seal ~~where box and clasp connect~~ any place where the box may be opened and apply to any metal seal the signed paper seal according to 5:02:16:39. A signed paper seal shall be used to completely cover any other opening in the ballot box not able to be sealed by a metal seal.

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979; 25 SDR 167, effective July 6, 1999.
General Authority: SDCL 12-1-9(4), 12-20-52.
Law Implemented: SDCL 12-17B-9, 12-18-32, 12-20-20.

5:02:16:38. Use of paper seals on ballot box. Repealed.

~~A paper seal may be used to cover the slot or any other opening on the ballot box through which ballots are deposited during the course of voting.~~

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979.
~~General Authority: SDCL 12-1-9, 12-20-52.~~
~~Law Implemented: SDCL 12-17B-9, 12-20-20.~~

5:02:16:39. Form of the paper seal. The paper seal ~~used pursuant to §§ 5:02:09:04.03(8) and 5:02:16:38~~ shall be in the following form:

BALLOT BOX SEAL

SIGNATURES OF COUNTING BOARD OR PRECINCT BOARD

~~Where ballots are counted by hand, upon returning ballots to the box after counting the counting board shall sign these seals and affix the seals to the ballot box openings and upon all places where the box may be opened except where the openings are sealed with a metal seal. Where ballots are counted by machine, the precinct board shall sign these seals.~~

Source: 4 SDR 26, effective October 27, 1977; 6 SDR 25, effective September 24, 1979; 25 SDR 167, effective July 6, 1999; 31 SDR 35, effective September 23, 2004.

General Authority: SDCL 12-1-9(4), 12-20-52.

Law Implemented: SDCL 12-20-20.